

**From:** Roland Bartl  
**Sent:** Monday, October 19, 2009 3:59 PM  
**To:** Greg Niemyski  
**Cc:** Planning Board  
**Subject:** RE: Green Zoning and Expedited Permitting

We still require Site Plan Special Permit. DOEE suggests that a site plan review is appropriate. I had an hour-long conversation with the DOEE folks ahead of the June STM action trying to convince them that technically site plan approval as they envision it is not contemplated in the State zoning statute, and further that our Site Plan Special Permit is the closest we can get to their model of site plan review while staying firmly within the bounds of the Zoning Act. Our long-standing legal practice is that Site Plan Special Permit is not discretionary in that the Town does not question the proposed use rarely if ever denies the permit. However, there have been stringent condition on Site Plan Special Permits in the past. I acknowledged that other communities have a procedure they call "site plan review", but that it works much like our Site Plan Special Permit. They were listening and said they would get back to me, which they never did. Their hang-up was over the words 'special permit'. To a large extent it is semantics, but there are differences - for instance that special permits, including in Acton the Site Plan Special Permit, requires a supermajority of a board for approval. What I see in other Towns is a site plan review with a simple majority approval hurdle.

So, we have indeed taken step one at the June STM, if we assume that DOEE has accepted my reasoning. But, I am not sure since they never called me back.

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**From:** Greg Niemyski  
**Sent:** Sunday, October 18, 2009 1:42 PM  
**To:** Roland Bartl  
**Cc:** Planning Board  
**Subject:** Green Zoning and Expedited Permitting

Hi Roland,

A few thoughts on our agenda items....

To qualify for whatever the benefits are, will require a minimum 50,000 sq. ft. facility BY RIGHT.

Paula Knibbe has indicated she "believes we have satisfied" the requirements in the regulations. While we made language changes to the zoning last TM to supposedly satisfy these regs, do we in fact allow a building of 50,000 sq ft without a special site plan permit as required? Why would we? Does anyone in Town know what the implication of having one of the new "emerging" industries operating?

What **are** the "benefits" to our Town of giving up control of a project this size in a site plan special permit and allowing

it by right? Is there another promise from the bankrupt state government to give funds for non specific "programs" that will make us all safer, cleaner, happier?

On Fast Track (Expedited) permitting, it seems to me that this regulation if adopted, will give the Board of Selectmen ultimate power in land development for permits submitted under this program. The regulation stipulates the the "single point of contact" in a town is the BoS. In the definitions section, under "Permits", it cites "including but not limited to chapters 40A,81..." Does this regulation cover residential development or just the road systems on 50,000 sq. ft. buildings?

The cost / benefit analysis needs to identify why the Town of Acton needs this. The Master Plan has not identified any Goals as yet. Other than identifying the need for more restaurants and conservation land, I don't know if there has been a mandate for fast development of "big boxes" of any kind.

The carrots dangled by the state are for priority CONSIDERATION in applications for "grants" and unspecified training programs, brownfields remediation (do we need this ?), enhanced marketing of our Town by the MAED and technical assistance from the regional planning council.

The last part of the bill (section 16) states, "The secretary shall promulgate rules and regulations to govern this chapter."

Does that mean they haven't written them as yet? They'll make them up as they go along?

prom·ul·gate (präm'əl gāt', prō mul'gāt')

transitive verb [promulgated](#) -gat'ed, [promulgating](#) -gat'ing

1. to publish or make known officially (a decree, church dogma, etc.)
2.
  1. to make known the terms of (a new or proposed law or statute)
  2. to put (a law) into effect by publishing its terms

If the BoS commits to doing this, I can only imagine the pressure that will be brought to bear upon Town Staff to push everything else aside to get this completed in the required window. This idea has been around for many years (as you know) We have a difficult enough time now setting up hearings, gathering comments, reviewing plans with the various and sundry boards and staff. I simply don't see the need for Acton to adopt this. While the pressure of development has subsided these last 2 years, when the economy returns to normal (please God!) the pace will more than likely pick up.

Again, I do not see any benefit to Acton to adopt these type regulations.

Greg